

revocation under section 321J.9 and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

c. The person's motor vehicle license is revoked under section 321J.12, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

However, a temporary restricted license may be issued if the person's motor vehicle license is revoked under section 321J.9, and the revocation is a second revocation under this chapter, and the first three hundred and ~~sixty~~ sixty-five days of the revocation have expired.

2. This section does not apply to a person whose license was revoked under section 321J.2A or section 321J.4, subsection 3 or 5, or to a person whose license is suspended or revoked for another reason.

Sec. 22. Section 805.8, subsection 10, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For violations of section 321.284, the scheduled fine is fifty dollars.

Sec. 23. Section 809.1, subsection 4, Code 1995, is amended to read as follows:

4. The definitions contained in subsections 1 through 3 shall not apply to violations of chapter 321 ~~or 321J~~.

Sec. 24. REPEAL. Section 321J.4A, Code 1995, is repealed.

Sec. 25. IMPLEMENTATION OF ACT – LEGISLATIVE INTENT. Section 25B.2, subsection 3, shall not apply to this Act. However, it is the intent of the general assembly that the fees and funds generated as a result of the passage of this Act be used to cover the costs associated with the additional duties imposed.

Approved April 20, 1995

CHAPTER 49

SUBSTANTIVE CODE CORRECTIONS

S.F. 88

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 17A.8, subsection 9, Code 1995, is amended to read as follows:

9. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule until the adjournment of the next regular session of the general assembly. The committee shall refer a rule whose effective date has been delayed to the speaker of the house of representatives and the president of the senate who shall refer the rule to the appropriate standing committees of the general assembly. If the general assembly has not disapproved of the rule by a joint resolution, the rule shall become effective. The speaker of the house of representatives and the president of the senate shall notify the administrative code editor of the final disposition of each rule delayed

pursuant to this subsection. If a rule is disapproved, it shall not become effective and the agency shall ~~withdraw~~ rescind the rule. This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".

Sec. 2. Section 99F.7, subsection 10, Code 1995, is amended to read as follows:

10. a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the ~~qualified electors~~ registered voters of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued. After a referendum has been held, another referendum requested by petition shall not be held for at least two years.

b. If licenses to conduct gambling games and to operate an excursion gambling boat are in effect pursuant to a referendum as set forth in this section and are subsequently disapproved by a referendum of the county electorate, the licenses issued by the commission after a referendum approving gambling games on excursion gambling boats shall remain valid and are subject to renewal for a total of nine years from the date of original issue unless the commission revokes a license at an earlier date as provided in this chapter.

c. ~~If, after January 1, 1994, section 99F.4, subsection 4, or 99F.9, subsection 2, is amended or stricken, including any amending or striking by 1994 Iowa Acts, chapter 1021, or a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which excursion boat gambling has been approved or in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the conduct of gambling games on excursion gambling boats or the operation of gambling games at pari-mutuel racetracks at a special election at the earliest practicable time. If excursion boat gambling is not approved by a majority of the county electorate voting on the proposition at the election, paragraph "b" does not apply to the licenses and the commission shall cancel the licenses issued for the county within sixty days of the unfavorable referendum. If the operation of gambling games at the pari-mutuel racetrack is not approved by a majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack.~~

d. If the proposition to operate gambling games on an excursion gambling boat or at a racetrack enclosure is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit the same proposition to the county electorate at the general election held in 2002 and, unless the operation of gambling games is ~~not~~ terminated earlier as provided in this chapter or chapter 99D, at the general election held at each subsequent eight-year interval.

Sec. 3. Section 235A.19, subsection 5, Code 1995, is amended to read as follows:

5. Whenever the registry corrects or eliminates information as requested or as ordered by the court, the registry shall advise all persons who have received the incorrect information of such fact. Upon application to the court and service of notice on the registry, any

individual subject of a child abuse report may request and obtain a list of all persons who have received child abuse information referring to the individual subject.

Sec. 4. Section 256.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state board of education is established for the department. The state board consists of nine members appointed by the governor subject to senate confirmation. The members shall be ~~qualified electors~~ registered voters of the state and hold no other elective or appointive state office. A member shall not be engaged in professional education for a major portion of the member's time nor shall the member derive a major portion of income from any business or activity connected with education. Not more than five members shall be of the same political party.

Sec. 5. Section 275.12, subsection 1, Code 1995, is amended to read as follows:

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of ~~qualified electors~~ registered voters reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. The petition shall be signed by ~~qualified electors~~ registered voters in each existing school district or portion affected equal in number to at least twenty percent of the number of ~~qualified electors~~ registered voters or four hundred ~~qualified electors~~ registered voters, whichever is the smaller number.

Sec. 6. Section 275.27, Code 1995, is amended to read as follows:

275.27 COMMUNITY SCHOOL DISTRICTS – PART OF AREA EDUCATION AGENCY.

School districts created or enlarged under this chapter are community school districts and are part of the area education agency in which the greatest number of ~~qualified electors~~ registered voters of the district reside at the time of the special election called for in section 275.18, and sections of the Code applicable to the common schools generally are applicable to these districts in addition to the powers and privileges conferred by this chapter. If a school district, created or enlarged under this chapter and assigned to an area education agency under this section, can demonstrate that students in the district were utilizing a service or program prior to the formation of the new or enlarged district that is unavailable from the area education agency to which the new or enlarged district is assigned, the district may be reassigned to the area education agency which formerly provided the service or program, upon an affirmative majority vote of the boards of the affected area education agencies to permit the change.

Sec. 7. Section 275.51, unnumbered paragraph 1, Code 1995, is amended to read as follows:

As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission shall be established by the board of directors of a school district if a dissolution proposal has been prepared by ~~qualified electors~~ registered voters who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by at least twenty percent of the ~~qualified electors~~ registered voters.

Sec. 8. Section 331.508, subsection 3, Code 1995, is amended to read as follows:

3. ~~Estray~~ Lost property book as provided in ~~section 169B.30~~ chapter 556F.

Sec. 9. Section 331.756, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Represent the state fire marshal in legal proceedings as provided in section 100.20.

Sec. 10. Section 347.16, subsection 2, Code 1995, is amended to read as follows:

2. Free care and treatment shall be furnished in a county public hospital to any sick or injured person who fulfills the residency requirements under section 47.4, subsection 1, paragraph "d", Code 1993, in the county maintaining the hospital, and who is indigent. The board of hospital trustees shall determine whether a person is indigent and entitled to free care under this subsection, or may delegate that determination to the general assistance director or the office of the department of human services in that county, subject to guidelines the board may adopt in conformity with applicable statutes.

Sec. 11. Section 384.84, subsection 4, Code 1995, is amended to read as follows:

4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to ~~two~~ five dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

Sec. 12. Section 421.1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The members of the state board shall be ~~qualified electors~~ registered voters of the state and shall hold no other elective or appointive public office.

Sec. 13. Section 479.33, Code 1995, is amended to read as follows:

479.33 AUTHORIZED FEDERAL AID.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by ~~Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968 (49 United States Code 1671-1684)~~ Pub. L. No. 103-272, as codified in 49 U.S.C. § 60101-60125.

Sec. 14. Section 479A.18, Code 1995, is amended to read as follows:

479A.18 FEDERAL INSPECTION.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with the applicable standards of pipeline safety as provided by ~~Pub. L. No. 90-481, the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671-1684~~ 103-272, as codified in 49 U.S.C. § 60101-60125.

Sec. 15. Section 548.101, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. The use of the mark has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.

Sec. 16. Section 554.4109, subsection 2, Code 1995, is amended to read as follows:

2. Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this chapter or by instructions is excused if (i) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and (ii) the bank exercises such diligence as the circumstances require.

Sec. 17. Section 554.4215, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2. If provisional settlement for an item does not become final, the item is not finally paid.

Sec. 18. Section 556F.2, Code 1995, is amended to read as follows:

556F.2 WARRANT - APPRAISAL - RETURN - RECORD.

The said district judge, district associate judge, judicial magistrate, or district court clerk shall thereupon issue a warrant, directed to some peace officer, commanding the peace officer to summon three respectable householders of the neighborhood, who shall proceed without delay to examine and appraise such the property, including cargo, tackle, rigging, and other appendages if any there be applicable, and to ~~make report thereof under their hands~~ submit a report regarding the examination and appraisal to the magistrate, judge, or clerk issuing such the warrant, who shall transmit a certified copy thereof to the county auditor to be recorded in the ~~estrays~~ a lost property book in the auditor's office.

Sec. 19. Section 556F.7, Code 1995, is amended to read as follows:

556F.7 WHEN OWNER UNKNOWN.

If the owner be is unknown, ~~such person~~ the finder shall, within five days after such finding the property, take such the money, bank notes, and a description of any other property before the county auditor of the county where the property was found, and ~~make provide an affidavit of the description thereof describing the property,~~ the time when and place where the same property was found, and attesting that no alteration has been made in the appearance thereof of the property since the finding; ~~whereupon the~~ The county auditor shall enter a description of the property and the value thereof, as nearly as the auditor can determine it, in the auditor's ~~estrays~~ lost property book, together with the affidavit of the finder.

Sec. 20. Section 556F.16, Code 1995, is amended to read as follows:

556F.16 RESPONSIBILITY OF TAKER-UP.

If the taker-up of any watercraft, logs, or lumber, or finder of lost goods, bank notes, or other things, ~~shall take~~ takes reasonable care of the same property, and any unavoidable accident happens ~~thereto~~ to the property without the fault or neglect of the finder or taker-up before the owner ~~shall have~~ has an opportunity of reclaiming the same property, ~~such the~~ taker-up or finder shall not be accountable ~~therefor~~ for the unavoidable accident, if ~~in cases of accident as aforesaid the finder or taker-up~~ within ten days thereafter ~~shall certify of the accident, the finder or taker-up certifies the same accident~~ to the county auditor, who shall make an entry thereof ~~of the accident~~ in the auditor's ~~estrays~~ lost property book.

Sec. 21. Section 600A.5, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. A plain statement of the facts and grounds in section 600A.8, subsections ~~1 to 4~~ 1, 2, 3, 4, and 7, which indicate that the parent-child relationship should be terminated.

Sec. 22. Section 615.3, Code 1995, is amended to read as follows:

615.3 FUTURE JUDGMENTS WITHOUT FORECLOSURE.

A judgment hereafter rendered on a promissory obligation secured by a mortgage, deed of trust of, or real estate ~~contract~~ upon property which at the time of the judgment is either

used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, but without foreclosure against the security, shall not be subject to renewal by action thereon, and, after the lapse of two years from the date of rendition, shall be without force and effect for any purpose whatsoever except as a setoff or counterclaim. As used in this section, "mortgagor" means a mortgagor of a mortgage or a borrower executing a deed of trust as provided in chapter 654 or the vendee of a real estate contract.

Sec. 23. Section 631.1, subsection 5, Code 1995, is amended to read as follows:

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of ~~two~~ four thousand dollars is sought for actions commenced on or after July 1, 1995. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 24. Section 716B.3, Code 1995, is amended to read as follows:

716B.3 UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE – PENALTIES.

A person who knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 9601-9675 6901-6992, is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 25. Section 717B.3, subsection 3, Code 1995, is amended to read as follows:

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal ~~abuse~~ neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Sec. 26. Section 729.1, Code 1995, is amended to read as follows:

729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a ~~serious~~ simple misdemeanor unless a greater penalty is otherwise provided by law.

Sec. 27. Section 729.3, Code 1995, is amended to read as follows:

729.3 PENALTY.

Any person, agency, bureau, corporation, or association that violates provisions of ~~sections 729.1 and section~~ section 729.2 shall be guilty of a simple misdemeanor.

Sec. 28. JURISDICTIONAL AMOUNT REVERSION. The jurisdictional amount in the section of this Act which amends section 631.1, subsection 5, shall revert to two thousand dollars if a court of competent jurisdiction declares the four thousand dollar amount unconstitutional.

Approved April 24, 1995